ISLE OF MAN
FINANCIAL SERVICES AUTHORITY
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Guidance Note - Additional considerations for a Fund of Alternative Investment Funds ("FAIFs") (non-feeder) in regard to its second schemes

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Investment in collective investment schemes

A Type B[1] scheme operating as a FAIF must not invest in units in a collective investment scheme (second scheme) unless the second scheme is a scheme which satisfies the criteria in paragraph 41(2)(a) to (d) of the Authorised Collective Investment Scheme Regulations 2010 ("ACIS Regs") or meets each of the following requirements at (a) to (d):

(a) the second scheme operates on the principle of the prudent spread of risk;

(b) the second scheme is prohibited from investing more than 15% in value of the property of that scheme in units in collective investment schemes or, if there is no such prohibition, the non-UCITS scheme's authorised fund manager is satisfied, on reasonable grounds and after making all reasonable enquiries, that no such investment will be made;

(c) the participants in the second scheme must be entitled to have their units redeemed in accordance with the scheme at a price:

(i) related to the net value of the property to which the units relate; and
(ii) determined in accordance with the scheme; and

(d) where the second scheme is an umbrella, the provisions in (a) to (c) and paragraph 100 of the ACIS Regs (Spread: general) apply to each sub-fund as if it were a separate scheme.

[1] Type B schemes are schemes which are not limited to operating under investment and borrowing powers which are analogous to those under the UCITS directive, including funds of alternative investment funds "FAIFs".

1) Due diligence requirements

A Type B scheme operating as a FAIF must not invest in units in schemes in paragraph 101(a) to (c) of the ACIS Regs ('second schemes') unless the authorised fund manager has carried out appropriate due diligence on each of the second schemes and:

(a) is satisfied, on reasonable grounds and after making all reasonable enquiries, that each of the second schemes complies with relevant legal and regulatory requirements;

(b) has taken reasonable care to determine that:

(i) the property of each of the second schemes is held in safekeeping by a third party, which is subject to prudential regulation and independent of the investment manager of the second scheme;
(ii) the calculation of the net asset value of each of the second schemes and the maintenance of their accounting records is segregated from the investment management function; and
(iii) each of the second schemes is regularly audited by an independent auditor in accordance with international standards on auditing.

The manager of a Type B scheme operating as a FAIF invested in one or more second schemes must carry out appropriate due diligence, as detailed above, on those schemes on an ongoing basis.

Status of Guidance: The Financial Services Authority issues guidance for various purposes, including to illustrate best practice, to assist licenceholders to comply with legislation and to provide examples or illustrations. Guidance is, by its nature, not law, however it is persuasive. Where a person follows guidance this would tend to indicate compliance with the legislative provisions, and vice versa.